

Attorney Docket No. 492.188

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Alan Savicki

Application No.: 09/979,527

Group No.: 3677

Filed: November 19, 2001

Examiner: James Brittain

For: CLOSURE DEVICE

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

ATTN: PCT Special Programs Division  
Ms. Sue Wolski  
(571) 273-0419

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I hereby certify that this paper (Petition Under 37 CFR 1.182) is being facsimile transmitted to the United States Patent and Trademark Office, PCT Special Programs Division at (571) 273-0419 on November 18, 2005.

  
Denise Whigham

PETITION UNDER 37 C.F.R. §1.182

Dear Ms. Wolski:

Pursuant to 37 CFR §1.182, Petitioner prays that the Commissioner separate the two sets of application documents that are currently part of serial number 09/979,527 by dividing out the application documents filed November 16, 2001 under 35 U.S.C. 371 to enter the national stage before the US Designated/Elected Office under PCT International Application No. PCT/US99/13191 (Attorney Docket No. 492.186) and leaving only the application documents filed November 19, 2001 under 35 U.S.C. 371 to enter the national stage before the US Designated/Elected Office under PCT International Application No. PCT/US99/13212 (Attorney Docket No. 492.188). Petitioner further prays that the Commissioner (1) issue a new serial number, or (2) rescind the cancellation

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of, and reassign serial number 09/979,367, to the documents filed November 16, 2001 under 35 U.S.C. 371 to enter the national stage before the US Designated/Elected Office under PCT International Application No. PCT/US99/13191 (Attorney Docket No. 492.186).

### FACTS IN SUPPORT OF PETITION

1. On June 10, 1999, Petitioner filed the following two PCT International Applications:

<u>AttyDocket No.</u>	<u>Int'l Appln No.</u>	<u>Int'l Filing Date</u>	<u>Title</u>
492.186	PCT/US99/13191	June 10, 1999	Closure Device
492.188	PCT/US99/13212	June 10, 1999	Closure Device

2. On November 16, 2001, Petitioner filed application documents under 35 U.S.C. 371 to enter the national stage before the US Designated/Elected Office corresponding to prior PCT International Application No. PCT/US99/13191 (Attorney Docket Number 492.186). The filed documents included a Transmittal Letter and a Declaration of the Inventor. Both the Transmittal Letter and Declaration of Inventor correctly identified the priority application as PCT International Application No. PCT/US99/13191. A copy of the Transmittal Letter and Declaration of Inventor for Attorney Docket No. 492.186 is included herewith as Exhibit A. Petitioner never received filing confirmation from the Patent Office.

3. On November 19, 2001, Petitioner filed application documents under 35 U.S.C. 371 to enter the national stage before the US Designated/Elected Office corresponding to prior PCT International Application No. PCT/US99/13212 (Attorney Docket Number 492.188). The filed documents included a Transmittal Letter and a Declaration of the Inventor. The Declaration of Inventor correctly identified the priority application as PCT International Application No. PCT/US99/13212. The Transmittal Letter, however, inadvertently identified the priority application as PCT International Application No. PCT/US99/13191 instead of the correct PCT International Application No. PCT/US99/13212. A copy of the Transmittal Letter and Declaration of Inventor for Attorney Docket No. 492.188 is included herewith as Exhibit B. The application documents filed November 19, 2001 were accorded serial number 09/979,527 as evidenced by the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office dated January 30, 2002 attached herewith as Exhibit C. The 1/30/2002 Notice identified the incorrect International Application No. Identified of PCT/US99/13191 instead of the correct International Application No.

identified of PCT/US99/13212.

4. On March 28, 2002, the United States Patent and Trademark Office mailed a Notice of Cancellation Of Assigned Serial Number to Petitioner informing Petitioner that the assigned serial number 09/979,367 (corresponding to Attorney Docket 492.186) had been cancelled and any fees regarding 09/979,367 had been credited to Petitioner's deposit account. A copy of the Notice of Cancellation Of Assigned Serial Number is attached herewith as Exhibit D.

5. On May 29, 2003, Petitioner filed a first Status Inquiry with the United States Patent Office for serial number 09/979,527 (Attorney Docket No. 492.188). A copy of the May 29, 2003 Status Inquiry is attached herewith as Exhibit E.

6. On April 1, 2004, Petitioner filed a second Status Inquiry with the United States Patent Office for serial number 09/979,527 (Attorney Docket No. 492.188). A copy of the April 1, 2004 Status Inquiry is attached herewith as Exhibit F.

7. On November 4, 2005, Petitioner was contacted by Sue Wolski, attorney in the PCT Special Programs Division of the United States Patent and Trademark Office. Ms. Wolski informed Petitioner that the US national phase application documents for both PCT/US99/13191 (Attorney Docket No. 492.186) and PCT/US99/13212 (Attorney Docket No. 492.188) were found in the file for serial number 09/979,527 (Attorney Docket No. 492.188). Ms. Wolski advised Petitioner to file this Petition to expedite the examination of 09/979,527, as well as extract the application documents of PCT/US99/13191 (Attorney Docket No. 492.186) in the event Petitioner wanted to pursue the national phase of PCT/US99/13191 (Attorney Docket No. 492.186).

#### RELIEF SOUGHT

This Petition seeks relief through correcting Petitioner's error in the misidentification of prior PCT International Application Number in the Transmittal Letter for the US National Phase application papers filed November 19, 2001 (as well as the error on the part of the US Designated/Elected Office of not reviewing the Declaration of Inventor which provided the accurate information on the prior PCT International Application Number) by recognizing that US Patent Application Serial Number 09/979,527, filed November 19, 2001, is the national stage application of PCT/US99/13212.

This Petition further seeks relief through separation of the two sets of applications papers that currently are part of serial number 09/979,527 and extraction of the application documents corresponding to those originally filed with the US Designated/Elected Office on November 16, 2001 under 35 U.S.C. 371 to enter the national stage of PCT/US99/13191 (Attorney Docket No. 492.186) and according said application documents with a new serial number or rescind of the cancellation previously accorded serial number 09/979,367, with all necessary fees being charged to Petitioner's Deposit Account No. 03-2270.

Please charge the required petition fee of \$130.00 set forth in 37 CFR 1.17(f) to Deposit Account No. 03-2270. The Commissioner is further authorized to charge any additional fees or to credit any overpayment associated with this communication to Deposit Account No. 03-2270. **This petition is submitted in duplicate.**

Respectfully submitted,

November 18, 2005



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